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Mr. Leslie Grober
Regional Water Quality Control Board, Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, California 95670-6114

SUBJECT: COMMENTS TO SAN JOAQUIN RIVER SALT AND BORON TOTAL MAXIMUM DAILY LOAD BASIN PLAN AMENDMENTS

Dear Mr. Grober:

The San Joaquin Flood Control and Water Conservation District and San Joaquin County (collectively "San Joaquin County" or the "County") are encouraged that the Regional Board is beginning to address the salinity problem of the Lower San Joaquin River. However, the proposed Amendments to the Water Quality Control Plan for the Sacramento and San Joaquin River Basins for the Control of Salt and Boron Discharges into the San Joaquin River ("Amendments") are not enough. The Regional Board must do more and has been directed to do more. The County provides the following comments to the Amendments:

A. The Amendments fail to establish salinity objectives upstream of Vernalis.

The proposed Amendments implement a Total Maximum Daily Load for salt and boron in the Lower San Joaquin River. This Total Maximum Daily Load is designed to meet the salt and boron water quality objectives established at Vernalis. The proposal is to further regulate discharges into the San Joaquin River, but the objective standard is still only set at Vernalis. For meaningful progress and improvement of the water quality to protect beneficial uses, salinity objectives must be set at additional locations on the San Joaquin River upstream of Vernalis in addition to a plan of implementation to meet the salinity objectives.

For many years, the Regional Board has been working on a Basin Plan Amendment to establish salinity objectives on the San Joaquin River upstream of Vernalis. In 1999, the State Board directed the Regional Board in Decision 1641 to "**promptly develop and adopt salinity objectives and a program of implementation for the main stem of the San Joaquin River upstream of Vernalis**". (Emphasis added.) The Regional Board is subject to the direction of the State Board and it is impossible to interpret the Decision 1641 other than meaning that the upstream standards should have been set. Since 1999, five years have passed. During the Regional Board Workshop on December 5, 2003, Regional Board indicated that staff is working on proposing objectives upstream of Vernalis. However, at this time, these proposals are not available. The Regional Board must establish such objectives immediately and the current Amendments should be implemented in coordination with the establishment of salinity objectives upstream of Vernalis.

The Regional and State Board have acknowledged the serious degradation of the San Joaquin River for many years. In the 1995 Bay Delta Water Quality Control Plan, the Regional Board was directed to implement a plan to reduce the annual salt load in the San Joaquin River by at least ten percent. During the 1999 Triennial Review Regional Board staff indicated it was scheduled to propose a Basin

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Plan Amendment to include water quality objectives and an implementation plan for salinity and boron by December 1999. In December 1999, the State Board in Decision 1641 directed the Regional Board to promptly adopt salinity objectives upstream of Vernalis. The Regional Board's April 2000 Staff Report stated that it was preparing the proposed Basin Plan Amendment addressing salinity. In March 2001, Regional Board staff stated that progress on the Basin Plan Amendment and establishing objectives upstream of Vernalis had been halted. Then in September 2002, Regional Board Staff Workshop stated that a draft Basin Plan Amendment establishing salinity objectives upstream of Vernalis would be available in the fall of 2002. This did not occur. During the December 2003, Regional Board workshop on the implementation plan for salt and boron Regional Board staff indicated the draft to establish salinity objectives upstream of Vernalis was still not available. The Regional Board must make progress and establish such standards. The State Board's direction to the Regional Board in 1999 was clear and precise. It cannot be construed to apply only to Vernalis.

Historically San Joaquin County has proposed that a salinity standard be set above the Merced River. There is a recent proposal to set and measure the applicable standard at the Newman Wasteway of the Delta-Mendota Canal. This recent proposal is acceptable. It is urgent that a standard be set to protect beneficial uses upstream of Vernalis. This standard should be at least the same standard as the Vernalis standards in order to protect beneficial uses upstream of Vernalis.

B. Amendments provide Bureau more years of delay.

The Amendments provide that the Regional Board will "attempt to enter into a Management Agency agreement with the State Water Resources Control Board and the U.S. Bureau of Reclamation" to address salt imports from the Delta-Mendota Canal to the Lower San Joaquin River. It is unclear what this proposed Management Agency agreement will address. The Bureau is currently not otherwise addressing salinity problems of the San Joaquin River and the Amendments provide the Bureau with at least two more years of delay. More delay on top of more than 40 years of delay should not be allowed.

In 1961, the County sought and obtained the passage of the San Joaquin River Protection Act (Wat. Code §§ 22000 et seq.) which "declared that a serious problem of water quality exists in the San Joaquin River between the junction of the San Joaquin River and the Merced River and the junction of the San Joaquin River and Middle River". The serious problem of water quality was recognized by the State as early as 1961.

In 1960, when the United States Congress authorized construction of the San Luis Unit of Central Valley Project (Act of June 3, 1960, Public Law 86-188, 74 STAT. 156), it provided that the construction of the San Luis Unit shall not be commenced until there were assurances for the drainage system for the San Luis unit. This was the out of valley drain, which has never been constructed. The Regional Board has identified the valley-wide drain as the only feasible long-term solution to the drainage problem (Decision 1641 p. 85). In *Firebaugh Canal Co., et al. v. United States of America, et al.*, (9th Cir. 2000) 203 F.3d 568, the Ninth Circuit Court of Appeals required the Bureau to provide drainage service. Despite court orders, the Bureau continues to delay making meaningful progress on the out of valley drain. Other meaningful proposals have been considered to address the salinity problems of the Lower San Joaquin River, including re-circulation and other controllable factors and real time management practices. However, no real progress has been made by the Bureau. The Bureau should no longer be allowed to control the timetable; the Regional Board must take charge.

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The Amendments "encourage" the Bureau to enter into a Management Agency Agreement. There is no strength to these Amendments. Based on the 40 years of history, the Bureau will not address the salinity problems facing the San Joaquin River until the Bureau is forced to do so by the Regional and State Boards. The Amendments must do more and the Regional Board must require the Bureau to address these problems immediately. We do not want two more years of endless negotiation.

C. Salinity of San Joaquin River impacts San Joaquin County.

San Joaquin County has divergent interests but we have a common goal with respect to San Joaquin River water quality. It must be improved. The population of the County is nearing 700,000 with rapid growth underway, as it has become a bedroom community to both the San Francisco Bay Area and the Sacramento metropolitan area. In addition, as a result of high costs in the Bay Area, industry is relocating to San Joaquin County. Agriculture remains one of the County's most important industries. In 2002, the County's agriculture production was over \$1.3 billion. The availability of a water supply with adequate water quality is critical to the economic well-being of the County.

The salinity of the San Joaquin River, which flows through the western portion of the County, greatly impacts the water users of San Joaquin County. First, almost half of the San Joaquin-Sacramento Delta is within San Joaquin County. The southern Delta channels suffer from both water quality degradation and low water levels for periods of the year. The poor water quality of water within the Delta channels decreases agricultural production. Second, due to the poor water quality of the San Joaquin River, the City of Stockton effluent treatment plant, located along the San Joaquin River within Stockton, must meet higher standards at great expense to the more than 300,000 people in the Stockton Metropolitan area. In addition, in order to meet the current water quality objectives at Vernalis, substantial releases of fresh water from New Melones Reservoir along the Stanislaus River is used to dilute the San Joaquin River. These releases deprive the County of its area of origin water in the very area that is experiencing a significant groundwater overdraft and which, in 1980, was designated by the California Department of Water Resources in Bulletin 118-80 as a groundwater basin subject to "critical conditions of overdraft" (Bulletin 118-80 p.3). The continued practice of using New Melones water for dilution results in a violation of the Watershed Protection Statute (Wat. Code § 11460).

The County is encouraged by the Regional Board's attempt to address salinity on the San Joaquin River. However, more meaningful progress must be made. This can be initiated by immediately establishing salinity objectives on the San Joaquin River upstream of Vernalis.

The County is requesting all notices regarding the Salt and Boron Total Maximum Daily Load and on the San Joaquin River to the Basin Plan to establish salinity objectives upstream of Vernalis.

Sincerely,



C. MEL LYTLE, PH.D.
Water Resource Coordinator
San Joaquin County Department of Public Works

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